O. Railways/43

1943

File No.

Legal Department

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Subject:—

Opinions Under the

Indian Railways Act 1890

P.4/E

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Gen. 194 e.

347-A

C O N T E N T S.

Legal Department File No. O.Railways/1943.

Sr.No.	R.I./O.No.	Subject.	Pages.
		Opinions under the Indian Railways Act, 1890.	
1.	4872 14-7-43.	Question whether as the case of stamps was booked from Nasik Road at Owner's Risk under 'Risk Note from Y', the Rly. Administration would be absolved from paying the face value of the stampslost.	1-4.

JPE.12/7/56.5c.

P.H.B. 1/8

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On 3rd December 1941, the Controller of Stamps, Nasik Road, despatched by goods train one case containing adhesive court fee and non judicial stamps of the face value of Rs.5162-12-0 and manufacturing value of Rs.33/- to the Treasury officer, Kaira. The Chief Traffic Manger, B.B. & C.I.Rly. reported that the case was missing, and was not traceable. The controller of stamps, states that though the stamps come under the category of "excepted articles" which should be insured, yet with a view to avoid increase in the cost of transmission all postal and non-postal stamp consignments supplied to all Treasuries in India have so far been, and are being, booked by this Department at owner's risk under Risk Note Form Y. The case did not reach its destination, and consequently inquires were made in the matter. The cause is reported to have been lost in transit. Consequently, the B.B. & C.I.Rly, arranged to compensate for the loss. The loss was calculated by the B.B. & C.I.Rly. in terms of the manufacturing cost of the stamps, and accordingly the sum of Rs.33/- was paid by the Railway to the Controller of Stamps which amount has been collected and credited to the Government of Bombay.

2. In para. 2 of his letter No. D.A.IX-9-3901 dated 13th March 1943, the Accountant General obsefves as follows:-

'It appears that it has been the practice to despatch all postal and non-postal stamps consignments to all Treasuries in India at Owner's Risk under 'Risk Note Form Y' with a view to avoid increase in the cost of transmission. IN this connection a reference is invited to para 4, of

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the Coorection slip No.60 to the Bombay Stamp Manual in which it has been laid down that stamps should be insured for their intrinsic value. It is not, however, clear why in this case no such insurance was effected. As the Rm pptential loss to Government is great itisisuggested that legal opinion may please be obtained to see whether the failure to insure the stamps and the fact that a Risk Note in Form 'Y' was taken would absolve the railway of the payment of the face value of the stamps. Since the stamps lost were adhesive ones and not embossed stamps, there is every possibility of the stamps having been stolen with a view to illicit use, in which case Government would be defrauded of revenue equivalent to the face value of the stamps. It is, therefore, for cosideration by the legal advisers of Government whether the carrying agency (i.e. the G.I.P.Rly Administration) should not reimburse the Government with the full (face) value of the consignment instead of paying only the cost of manufacutre. So far as appears to this office, the holding of a risk note in Form 'Y' would not absolve the in case where a whole consignment has been lost and has not been delivered to the consignee". The U.S.R.D. considers that Risk Note form Y absolves the Railway from loss from any cause whatsoever.

3. On the above facts, the question raised for R.L.A.'s consideration is whether in the case of stamps was booked from Nasik Road at Owner's Risk under "Risk Note Form 'Y' the R Rly. Administration would be absolved from paying the face value of the stamps lost.

JPE.10/7/56.
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Office of the R.L.A.

The question whether the value of the stamps for the purposes of compensation should be the manufacturing value or the face value seems immaterial; for in either case it seems that the railway company is exempt underthe terms of the risk note ~~fxm~~ form Y from the payment of comxpensation. The view of U.S.R.D., is correct.

Id/- P.N~~X~~M.
~~XX~~12/7

Remembrancer of Legal Affairs.

U.R. to R.D., No. 4872,

dated the 14th July 1943.